

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

TREMAYNE CARROLL,

Plaintiff,

v.

CDCR, *et al.*,

Defendants.

Case No. 1:22-cv-00363-BAM (PC)

ORDER GRANTING MOTION TO
PROCEED *IN FORMA PAUPERIS*

(ECF No. 2)

ORDER DIRECTING PAYMENT OF
INMATE FILING FEE BY CALIFORNIA
DEPARTMENT OF CORRECTIONS

Plaintiff Tremayne Carroll (“Plaintiff”) is a state prisoner appearing *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. On March 29, 2022, Plaintiff filed a motion to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. (ECF No. 2.) Plaintiff filed a certified trust account statement on March 30, 2022. (ECF No. 6.)

Plaintiff is subject to 28 U.S.C. § 1915(g), which provides that “[i]n no event shall a prisoner bring a civil action . . . under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.”¹

¹ Based on Plaintiff’s assertion that she previously brought the case *Carroll v. Toelee*, Case No. 3:20-cv-00079-LL-RBM (S.D. Cal.), (ECF No. 1, p. 1), the Court reviewed cases filed under the names Tremayne Carroll, Tremayne Deon Carroll, and Tremaine Carroll, as well as cases filed under CDCR # H-73384 and Plaintiff’s current

1 However, upon review of Plaintiff's complaint, the Court finds that her allegations appear
 2 to satisfy the imminent danger exception to section 1915(g), at the time the complaint was filed.
 3 *Andrews v. Cervantes*, 493 F.3d 1047, 1053–55 (9th Cir. 2007).²

4 Plaintiff has made the showing required by § 1915(a) and accordingly, the request to
 5 proceed *in forma pauperis* will be granted. Plaintiff is obligated to pay the statutory filing fee of
 6 \$350.00 for this action. 28 U.S.C. § 1915(b)(1). Plaintiff is obligated to make monthly payments
 7 in the amount of twenty percent (20%) of the preceding month's income credited to Plaintiff's
 8 trust account. The California Department of Corrections is required to send to the Clerk of the
 9 Court payments from Plaintiff's trust account each time the amount in the account exceeds
 10 \$10.00, until the statutory filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. Plaintiff's application to proceed *in forma pauperis*, (ECF No. 2), is GRANTED;
- 13 2. **The Director of the California Department of Corrections or his or her**
 14 **designee shall collect payments from Plaintiff's prison trust account in an amount**
 15 **equal to twenty per cent (20%) of the preceding month's income credited to the**
 16 **prisoner's trust account and shall forward those payments to the Clerk of the Court**
 17 **each time the amount in the account exceeds \$10.00, in accordance with 28 U.S.C.**
 18 **§ 1915(b)(2), until a total of \$350.00 has been collected and forwarded to the Clerk of**
 19 **the Court. The payments shall be clearly identified by the name and number**
 20 **assigned to this action;**

21
 22 CDCR # WB-1153.

23 Accordingly, the Court takes judicial notice of the following United States District Court Cases: (1) *Carroll*
 24 *v. Brown*, Case No. 2:12-cv-02584-TLN-DAD (E.D. Cal.) (dismissed September 26, 2013 as duplicative);
 25 (2) *Carroll v. Virga*, 2:12-cv-01327-KJN (E.D. Cal.) (dismissed January 6, 2014 for failing to file an amended
 complaint after a screening order found a failure to state a claim); (3) *Carroll v. California*, Case No. 3:15-cv-01722-
 LAB-WVG (S.D. Cal.) (dismissed October 9, 2015 for failure to state a claim); and (4) *Carroll v. Paramo*, Case No.
 3:16-cv-01718-CAB-JLB (S.D. Cal.) (dismissed September 1, 2016 for failure to state a claim).

26 ² In the complaint, Plaintiff alleges in part that staff at Central California Women's Facility ("CCWF"), where
 27 she is currently housed, have ordered other inmates to physically attack Plaintiff. (ECF No. 1, p. 5.) Inmate J. Doe
 28 physically attacked Plaintiff multiple times in December 2021 on orders from CCWF staff and did not receive any
 disciplinary actions. Plaintiff asked for Ad-Seg placement to be safe from Inmate J. Doe and was denied. Inmate J.
 Doe later assaulted Plaintiff on March 3, 2022 and bragged that staff ordered it. (*Id.*) At this time, the Court
 expresses no opinion on the merits of Plaintiff's claims.

3. The Clerk of the Court is directed to serve a copy of this order and a copy of Plaintiff's *in forma pauperis* application on Director of the California Department of Corrections, via the Court's electronic case filing system (CM/ECF); and

4. The Clerk of the Court is directed to serve a copy of this order on the Financial Department, U.S. District Court, Eastern District of California.

IT IS SO ORDERED.

Dated: **April 1, 2022**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE